

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6440

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RUDOLPH ESTON NESSELRODT,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, Senior District Judge. (CR-02-00001; CA-03-580-7)

Submitted: July 20, 2005

Decided: August 10, 2005

Before LUTTIG, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Rudolph Eston Nesselrodt, Appellant Pro Se. William Frederick Gould, OFFICE OF THE UNITED STATES ATTORNEY, Charlottesville, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Rudolph Eston Nesselrodt seeks to appeal the district court's orders denying relief on his 28 U.S.C. § 2255 (2000) motion and denying in part his subsequent motion to alter or amend judgment. The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Nesselrodt has not made the requisite showing. Accordingly, we deny Nesselrodt's motion for a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED